HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 2646 OF 2006

Between:

J. Naganna, aged about 28 years S/o J. Chnna Sunkanna, Occ. Agriculture.

...Petitioners

AND

1. The Additional Director General of Police, (CID), Govt. of Andhra Pradesh, Hyderabad and four others.

.....Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 2646 OF 2006

ORAL ORDER:

The Writ Petition is filed aggrieved that the respondents 1 to 3 have not taken departmental action against 5th respondent despite direction given by the 4th respondent.

2. Petitioner claims to be a tribal, "Yerukala" by caste. Petitioner alleges that the 5th respondent had confined the petitioner and his brother one Erranna, from 5.1.2005 to 14.1.2005 and had collected Rs. 10,000/- as bribe to send them for judicial remand in a case registered against them under Sections 324 and 307 IPC. Petitioner also alleges torture in the police lockup from 5.1.2005 to 14.1.2005. The petitioner admits that he and his brother were produced before the Magistrate for judicial remand and that they did not state about illegal confinement and the collection of bribe (before the Magistrate) apprehensive that the fifth respondent would implicate them in other cases, and would beat them further in the lockup. The petitioner however, submitted a representation dated 16.4.2005 to the second respondent about the harassment by the 5th respondent. A copy of the representation was also submitted to the 4th respondent-Secretary, A.P. State S.C and S.T Commissioner. The fourth respondent directed the second respondent to depute an Officer of the rank of Deputy Superintendent of Police to enquire into the allegations by the petitioner against the 5th respondent.

3. Pursuant to the proceedings dated 9.5.2005 issued by the 4th respondent, the Deputy Superintendent of Police was appointed as an Enquiry Officer, who furnished a report to the first respondent some time in the July 2005. On 3.8.2005 the Chairman of A.P. State SC and ST Commission addressed the second respondent stating that the enquiry by the Deputy Superintendent of Police found substance in the allegations of the petitioner regarding atrocities committed by the 5th respondent and therefore, since the 5th respondent and the Sub-Inspector might in the circumstances feel aggrieved against the petitioner and might foist false cases against him and his brother, it would be appropriate to shift the concerned Officers from Yemmiganur.

4. Thereupon, the first respondent on 29.8.2004 addressed the 4th respondent directing the second respondent to initiate appropriate departmental action against the 5th respondent.

5. It is the laid-back conduct of the official respondents, in initiating action against the 5th respondent, that has provided the impetus to seek relief in this Writ Petition, namely for a direction to the respondents to take appropriate action against the 5th respondent pursuant to the directions issued by the 4th respondent.

6. At the hearing of the Writ Petition today, Sri B. Purushothama Reddy, learned counsel appearing for the petitioner placed before this Court an order issued by the second respondent dated 12.4.2006 directing the third respondent to initiate disciplinary action against the 5th respondent as per CCA Rules and also Criminal action as per the legal opinion.

7. In view of the order of the second respondent dated 12.4.2006, the grievance of the petitioner does not subsist. However, Sri B. Purushothama Reddy, learned counsel would urge that despite the second respondent's order dated 12.4.2006, yet initiated disciplinary action against the 5th respondent but has merely transferred him out of the Yemmiganoor. The petitioner seeks a direction to the third respondent to initiate disciplinary proceedings against the 5th respondent. This Court is not inclined to issue such a direction.

8. The second respondent is the head of the Police Administration, of the Rayalaseema Zone and the Inspector General of Police. He has issued an order dated 12.4.2006 directing the third respondent, who is within his administrative control, to initiate disciplinary action against the 5th respondent and to explore the possibility of initiating criminal action if the legal opinion is to that effect. The order of the second respondent dated 12.4.2006 also directs the third respondent to send a compliance report to the second respondent. The second respondent has passed the order on the basis of the enquiry report of the Additional Superintendent of Police (Operations) Anantapur District, dated 6.3.2006. There is no material before this Court to conclude that the third respondent has not acted on the order of the second respondent and has failed to submit a report. Whether such a report was sent, whether the third respondent is still in the process of initiating or proceeding with the disciplinary enquiry or exploring the possibility of initiating criminal action against the 5th respondent, whether the enquiry revealed the guilt or otherwise of the 5th respondent are all matters within the executive domain of the official respondents 1 to 3. This Court would not supervise the administration of the police on a day-to-day basis.

9. On behalf of the 5th respondent, it is contended by Sri Janakiram Reddy the learned counsel representing Sri Eayyapu Reddy learned counsel, that the petitioners are involved in a number of criminal cases and to avoid legal consequences have made false allegations against the Police.

10. Sri B. Purushothama Reddy, the learned counsel for the petitioner would submit that the unlawful conduct of the 5th respondent has been established in a departmental preliminary enquiry conducted by the Additional Superintendent of Police (Operations) Anantapur District and that such unlawful official conduct of the 5th respondent ought to

be proceeded against notwithstanding the fact that the petitioner might be involved in Criminal Cases himself. There can be no doubt that even a criminal or a person accused of offences ought to be treated, by persons holding a public office, strictly in accordance with law. No police officer has a right to illegally detain an accused nor to torture him in custody.

11. The question is whether the 5th respondent is involved in any such conduct. The second respondent has ordered the third respondent to initiate disciplinary proceedings. If the second respondent despite being the Inspector General of Police of the region concerned, is not empowered adequately to command fidelity and obedience to his orders, by the third respondent, a direction by this Court will not energize the dysfunctional power. 12. For the aforesaid reasons, this Court is not inclined to issue a Mandamus, Order or any other direction to the third respondent to comply with the directions of the second respondent. The petitioner is at liberty to pursue the remedies with the appropriate agency of the State within the democratic process. As the second respondent has issued the proceedings dated 12.4.2006, no further orders are required and the Writ Petition is dismissed. No order as to costs.

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GODA RAGHURAM, J

Date: 02.01.2007
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